The statute in Virginia presumably does not enlarge the common law in this respect. Va. Code, 1919, § 5134. No case on this point seems to have arisen.

MARRIAGE—INDIANS—VALIDITY OF MARRIAGE OF INDIAN WHO HAS GIVEN UP TRIBAL RELATIONS GOVERNED BY LAW OF STATE IN WHICH HE RESIDES.—The deceased, an Indian, while still affiliated with his tribe, married A in accordance with tribal customs. Several years later he applied to the Land Board for an allotment of homestead under a federal statute requiring, as a condition precedent to such allotment, satisfactory proof of abandonment of tribal relationships. The allotment was granted. Shortly afterwards A, following tribal laws and customs, divorced the deceased and married another man. Thereupon the decedent entered into a tribal marriage with B, with whom he cohabited until his death. Upon the decedent's death both A and B claimed to share in his estate as his widow. *Held*, A was entitled to the widow's share. *In re Wo-gin-up's Estate* (Utah), 192 Pac. 267.

It is the uniform holding of the courts that, so long as Indians maintain their tribal relations, the courts will recognize the tribal customs prevailing and administered by such tribes, especially respecting their domestic relations. *James* v. *Adams*, 56 Okla. 450, 155 Pac. 1121; *Wali* v. *Williamson*, 8 Ala. 48; *Kobogum* v. *Jackson Iron Co.*, 76 Mich. 498, 48 N. W. 602. In every such case the courts, in upholding a marriage or divorce contrary to the laws of the land, made the same dependent upon the fact that at the time of such marriage or divorce the parties retained their tribal relatins. *Moore* v. *Wa-me-go*, 72 Kan. 169, 83 Pac. 400; *Oklahoma Land Co.* v. *Thomas*, 34 Okla. 681, 127 Pac. 8; *Boyer* v. *Dively*, 58 Mo. 510. But where an Indian has abandoned his tribal relations he ceases to be subject to the laws and customs of his tribe, and becomes subject to the laws of the State or Territory in which he resides. *Moore* v. *Wa-me-go, supra; In re Now-ge-zhuck*, 69 Kan. 410, 76 Pac. 877; *Matter of Heff*, 197 U. S. 488. The case last cited upholds the power of Congress to change the status of the Indian from that of ward to that of citizen by appropriate legislation.

Act of Congress March 3, 1875, c. 131, § 15 (Comp. Stat. § 4611) providing for allotments of land to Indians, makes satisfactory proof before the Land Board of abandonment of tribal relations a condition precedent to such allotment. The decision of the Land Department as to the existence of facts necessary for, or the performance of conditions precedent to, a lawful exercise of their authoirty, is conclusive and cannot be collaterally impeached in an action at law. *Smelting Co.* v. *Kemp*, 104 U. S. 636; *Vance* v. *Burbank*, 101 U. S. 514; *Bagnell* v. *Broderick*, 13 Pet. 436. It seems to follow that the allotment of lands to an Indian under this act is conclusive proof that the Indian has severed his tribal relations, and so it was held in the instant case.

MARRIAGE—UNCLE AND NIECE OF THE HALF BLOOD—NOT INCESTUOUS.—In an action for divorce brought by the wife, it was alleged by the defendant that the marriage was void, being in violation of a statute which

declared that a marriage between a brother and sister of the whole or half blood, or between an uncle and niece, was incestuous and void; and that since the plaintiff was a daughter of a half brother of the defendant, there could have been no valid marriage. *Held*, that the parties were validly married, and a divorce could be granted. *Audley* v. *Audley*, 184 N. Y. Supp. 38.

At common law incest was not indictable, but it was punished in the ecclesiastical courts as against good morals. But in most, if not all, jurisdictions in this country it has been made a crime with appropriate punishment. 4 BL. COM. 65; *State* v. *Keesler*, 78 N. C. 469; *State* v. *Smith*, 30 La. Ann. 846; and see note in 111 Am. St. Rep. 19. Since the offense is statutory, its exact nature varies in the several states, but there is sufficient similarity between the statutes for decisions in one jurisdiction to be cited as authority in another.

A long line of authorities have universally interpreted statutes, worded similarly, if not identically, to the one involved in the instant case, with a diametrically opposite result. In fact, no decision has been found supporting the instant case; but all hold that such a marriage between an uncle and niece of the half blood is incestuous and void. *Williams* v. *McKeene*, 193 Ill. App. 615; *State* v. *Guiton*, 51 La. Ann. 155, 24 So. 784; *State* v. *Wyman*, 59 Vt. 527, 8 Atl. 900, 59 Am. Rep. 753. The language employed in the statute is to be interpreted according to its common meaning; and when the terms "uncle" and "niece" are viewed in that light, they will include the daughter of a brother of the half blood. *State* v. *Reedy*, 44 Kan. 190, 24 Pac. 66. The rule is laid down in some jurisdictions that the relationship of uncle and niece must be of necessity by the half blood, and that the fact that the parent of the woman is only a half brother or sister of the husband cannot give validity to the marriage. *State* v. *Harris*, 149 N. C. 513, 62 S. E. 1090, 128 Am. St. Rep. 669. Other authorities justify the doctrine on the grounds that all degrees of kindred are computed according to the rules of the civil law, by which those of the half blood are admitted in all respects equally with the whole blood. *State* v. *Wyman*, *supra*.

The New York court based this decision upon an interpretation of their statute which provided that a marriage is incestuous and void if contracted "between a brother and sister of either the whole or the half blood; between an uncle and niece, or aunt and nephew". They stated that if the intention of the legislature was to bar marriages between uncle and niece of the half blood, then such a provision would have been incorporated into that clause of the statute forbidding marriages between uncle and niece. The only New York case, which search disclosed, upon the general subject decided that a marriage between an uncle and niece, before the passage of a prohibitory statute, was not void. *Weisberg* v. *Weisberg*, 98 N. Y. Supp. 260.

The question seems not to have been before the courts of Virginia

SALES—CONSTRUCTION OF CONTRACT—"APPROXIMATE" QUANTITIES.—The plaintiff contracted to sell the defendant 900 tons of paper, to be de-